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10 UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF WASHINGTON
12 AT TACOMA

13 JERAL A. PEOPLES,

14 Petitioner,

15 v.

16 GARY CAPELLO,

17 Respondents.

CASE NO. C10-5109BHS/JRC

ORDER TRANSFERRING ACTION TO
THE WESTERN DISTRICT OF
MICHIGAN, NORTHERN DIVISION

18 The underlying Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 has
19 been referred to United States Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. §
20 636(b) (1) (A) and 636 (b) (1) (B), and Local Magistrate Judge's Rule MJR3 and MJR4.
21 Petitioner seeks to proceed in forma pauperis.

22 While the documents he submits show that he is indigent, the underlying petition
23 challenges a Michigan conviction. Further, petitioner is housed in the Baraga Maximum
24 Security Facility in Baraga, Michigan. Thus, venue is not proper in the Western District of
25 Washington. In addition, petitioner states that he has previously filed a petition and the exhibits
26 show that petition was filed in the United States District Court for the Western District of

1 Michigan Northern Division Court. That petition was denied (Dkt. # 1, proposed petition page
2 5). Thus, this petition may be a second or successive petition.

3 28 U.S.C. 2241 (d) directs a petitioner to file his petition in the district court in the state
4 where he was convicted or the district where he is being held in custody. Plaintiff was not
5 convicted in Washington State and is not being held in custody in Western Washington.
6 Accordingly, venue does not rest with this court. 28 U.S.C. 2241 (d) allows a district court to
7 exercise its discretion to transfer a petition to another district court.
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9 The Court ORDERS this petition be transferred to the United States District Court for the
10 Northern District of Michigan, Northern Division. That court will determine if petitioner should
11 be allowed to proceed in forma pauperis and if this petition is second or successive.
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BENJAMIN H. SETTLE
United States District Judge

17 Recommended for entry
18 this 22nd day of February, 2010.

19 /s/ J. Richard Creatura
20 J. Richard Creatura
21 United States Magistrate Judge
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